

June 8, 2009

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TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

JUNE 8, 2009

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN  
FRANCIS BEDETTI, JR.  
JAMES DITTBRENNER  
LEN MCDONALD

ALSO PRESENT: ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

NICOLE JULIAN  
ZONING BOARD SECRETARY

ABSENT: PAT TORPEY

REGULAR\_MEETING

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MR. KANE: I'd like to call to order the June 8, 2009  
meeting of the New Windsor Zoning Board of Appeals.

PHYLLIS\_DRENNEN\_(FOR\_MARY\_DOMALAUAGE)\_(09-17)

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MR. KANE: Tonight's first preliminary meeting Phyllis Drennen for Mary Domalauage, excuse me if I butcher the names. Request for a variance of 30 feet for an existing screened porch which is 200 feet from the rear property line, required rear yard depth of 50 feet at 14 Elizabeth Lane in an R-3 zone. You want to just state your name and address loud enough for the young lady?

MS. DRENNEN: Phyllis Drennen, 22 Ona Lane, New Windsor, New York 12553. And I'm here for Mary just to get a variance on her screened porch.

MR. KANE: And any relation to Mary?

MS. DRENNEN: No, I'm the realtor.

MR. KANE: So for the public hearing she's going to need a proxy.

MR. KRIEGER: Correct.

MR. KANE: For the public portion of the meeting, you'll need a proxy that allows you to speak for her.

MS. DRENNEN: When I come next time?

MR. KANE: Yes, this is a prelim so this is what we do is give you an idea of exactly what you need and then so that you can have it for the public hearing. Screened-in porch has been in existence how many years?

MS. DRENNEN: Probably '50s.

MR. KANE: And a couple of questions that may not make sense but I have to ask them anyway. In the building of this to your recollection and the same questions will be asked at the public hearing, cut down any

trees, substantial vegetation in the building of it?  
Not to your knowledge?

MS. DRENNEN: I think there might have been one on the side.

MR. KANE: Creating water hazards or runoffs?

MS. DRENNEN: Not that I know of.

MR. KANE: Any easements going through an area where the screened-in porch is?

MS. DRENNEN: No.

MR. KANE: Over the 50 odd years to your knowledge has there been any complaints formally or informally about it?

MS. DRENNEN: They said no, that's all I know.

MR. KANE: You guys got pictures?

MR. BEDETTI: Yes.

MR. KANE: Any further questions at this time?

MR. BEDETTI: You said there were no complaints?

MS. DRENNEN: No.

MR. KANE: She said no, it's been there for years.

MR. BEDETTI: When it comes to a public hearing we'll see.

MR. KANE: Yeah, we'll just need a proxy for the public and that's it. I'll accept a motion.

MR. BEDETTI: I'll make a motion that we schedule a

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public hearing for Mary Domalauge's request for a  
variance of 30 feet for rear yard deck violation at 14  
Elizabeth Lane in an R-3 zone.

MR. DITTBRENNER: I'll second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. MCDONALD	AYE
MR. KANE	AYE

ANNMARIE\_THOMPSON\_(09-18)

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MR. KANE: Request for a variance on a corner lot for a proposed 6 foot fence installed between principal building and the street at 8 Saint Anne Drive in an R-4 zone. Hi, same thing, state your name and address, speak loud enough for this young lady to hear you.

MS. THOMPSON: Annmarie Thompson, 8 Saint Anne Drive, New Windsor, New York 12553.

MR. KANE: Tell us what you want to do.

MS. THOMPSON: I want to install a six foot white, five foot, one foot lattice white vinyl fence around three sides of my yard.

MR. KANE: And the main reason you're in here is because you're on a corner lot which means you have two front yards?

MS. THOMPSON: According to the Town of New Windsor, yes.

MR. KANE: According to the State of New York. Okay, is this the fence right there?

MS. THOMPSON: That's the existing fence, chain link and the gray slats but you can see straight through it, I was hoping--

MR. DITTBRENNER: You're replacing that existing fence along the existing line?

MS. THOMPSON: Yes, I put that one up, I have to tear it down.

MR. KANE: The fence doesn't inhibit the vision from any vehicles?

MS. THOMPSON: I can say no and I believe that wholeheartedly, I've had people drive by for opinions.

MR. KANE: We do have a picture showing the fence off of the street.

MS. THOMPSON: It's actually up on a hill and I think that's why it doesn't impair the vision.

MR. KANE: And you said you're replacing the existing fence?

MS. THOMPSON: Yes.

MR. KANE: The fence that's there currently is that a six foot fence or four foot?

MS. THOMPSON: Four foot.

MR. KANE: And the reason that you want to go to six?

MS. THOMPSON: When I moved in there was woods behind me and woods across the street. Since then there have been two homes installed directly behind me and a medical strip mall across the street so the privacy is zero.

MR. KANE: More privacy?

MS. THOMPSON: Yes, the reason is privacy bottom line.

MR. KANE: Any further questions? I'll accept a motion.

MR. DITTBRENNER: I'll make a motion that we move the application of Annmarie Thompson as relates to a proposed six foot fence to be installed between the principal building and the street move forward for a public hearing.

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MR. BEDETTI: I'll second that.

ROLL CALL

MR. DITTBRENNER      AYE

MR. BEDETTI            AYE

MR. MCDONALD          AYE

MR. KANE                AYE

MS. JULIAN: This is for you.

MS. THOMPSON: Thank you.

PUBLIC HEARINGS:

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JOHN\_AND\_PHYLLIS\_DRENNEN\_(09-13)  
\_\_\_\_\_

MR. KANE: Tonight's first public hearing is a request for an area variance for existing cabana that doesn't meet the minimum 10 foot side and 10 foot rear yard setback, request for area variance for existing shed that doesn't meet 10 foot rear yard setback at 22 Ona Lane in an R-4 zone. Hi, once again just like in the preliminary, tell us name, address and what you want to do.

MS. DRENNEN: Phyllis Drennen, 22 Ona Lane, New Windsor, New York 12553.

MR. DRENNEN: Jack Drennen, 22 Ona Lane, New Windsor, New York 12553.

MR. KANE: At this point, I will just ask if there's anybody in the audience for this particular hearing? Okay, none, let the record show that there are none. Okay, let's address the cabana first. About how long has the cabana been there approximately?

MS. DRENNEN: About 12 years.

MR. DRENNEN: Yes.

MR. KANE: Cut down any substantial trees or vegetation in the building of the cabana?

MR. DRENNEN: A little vegetation, no substantial trees.

MR. KANE: Create water hazards or runoffs?

MR. DRENNEN: No.

MR. KANE: Any easements going through the area where



the cabana's located?

MR. DRENNEN: No.

MR. KANE: Any complaints formally or informally over the last 12 years?

MR. DRENNEN: No.

MR. KANE: Moving it at this point would be a hardship?

MR. DRENNEN: Yes.

MR. KANE: Anymore questions right now?

MR. BEDETTI: I was just going to ask that is there any other place that they could be moved? I realize that you asked, it was a hardship, I'm not talking about an inconvenience, I'm talking about a hardship. Is there any reason why they couldn't been moved away into another location?

MR. DRENNEN: The pool restricts it and there's a concrete slab poured where it sits on so--

MR. BEDETTI: So there really isn't another reasonable place you can put it?

MR. DRENNEN: No, there isn't.

MR. BEDETTI: Short of taking them down and that defeats the whole purpose.

MR. DRENNEN: Yes.

MR. BEDETTI: That's really all.

MR. KANE: Let the record show we do have a photograph showing that. At this point, I will open the meeting to the public, ask once again if there's anybody here

for this particular hearing? Seeing as there's not, we'll close the public portion on the meeting and ask Nicole how many mailings we had.

MS. JULIAN: On April 28, 2009, I had 53 addressed envelopes with no written response.

MR. KANE: Okay, let's move over to the shed. Cutting down any substantial trees or substantial vegetation in the building of the shed?

MR. DRENNEN: No, nothing.

MR. KANE: Create water hazards or runoffs?

MR. DRENNEN: No.

MR. KANE: Any easements running through the area where the shed is located?

MR. DRENNEN: No.

MR. KANE: Approximately, how many years has the shed been there?

MR. DRENNEN: We're thinking about 30.

MR. KANE: To your knowledge over the last 30 years, have you had any complaints formally or informally?

MR. DRENNEN: No.

MR. KANE: And I would assume that it's kind of difficult to move a 30 year old shed at this point?

MR. DRENNEN: Yes.

MR. KANE: Further questions? I'll accept a motion.

MR. MCDONALD: I'll make a motion that we grant John

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and Phyllis Drennen the variances as requested.

MR. BEDETTI: I'll second that motion.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. MCDONALD	AYE
MR. KANE	AYE

ENVER\_HAKAJ\_(09-14)

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MR. KANE: Next public hearing is Enver Hakaj request for an area variance for proposed 15 foot diameter pool will not meet minimum 10 foot side yard setback at 2311 Pioneer Trail. In the meantime, I will ask if there's anybody here for this particular hearing? Let the record show that there is not. Okay, you want to state your name and address just like at the preliminary meeting and tell us what you want to do? Speak loud enough for the young lady to hear you.

MS. HAKAJ: Mersada Hakaj, 2311 Pioneer Trail, New Windsor, New York 12553. I'm here for the variance for the pool.

MR. KANE: Going to be cutting down any trees or substantial vegetation in the building of the pool?

MS. HAKAJ: No.

MR. KANE: Will you be creating any water hazards or runoffs with that?

MS. HAKAJ: No.

MR. KANE: Is there any other place on your property that would allow the pool to be built?

MS. HAKAJ: No.

MR. KANE: Okay, and at a 15 wide pool that's about as small as you can get on an above-ground pool?

MS. HAKAJ: Yes.

MR. KANE: Any easements running through the area where you want to put the pool up?

MS. HAKAJ: No.

MR. KANE: At this point, I will ask once again I will open up the public portion of the meeting, ask if there's anybody here for this particular hearing? Again seeing as there's not, we'll close the public portion and ask Nicole how many mailings we had.

MS. JULIAN: On April 28, 2009, I mailed out 25 addressed envelopes with no response.

MR. KANE: Further questions, gentlemen?

MR. BEDETTI: Now, this is one of the steel wall pools, above the ground pool?

MS. HAKAJ: It's above the ground, my husband couldn't make it, he was at work but you asked a question if it was with the bars or it's, I forgot.

MR. KANE: That was me with the outriggers coming from the side, the supports.

MS. HAKAJ: I don't know but I don't know if you remember cause I don't know, it doesn't take up anymore space.

MR. KANE: Right, it's what they call a buttressless pool, it's connected underneath the ground, they build a trench. I was in the business for 25 years so I know a little bit about it.

MR. BEDETTI: Above-ground pool?

MR. KANE: Either steel or aluminum.

MR. BEDETTI: Metal wall pool?

MR. KANE: Right.

MR. BEDETTI: That's all.

MR. KANE: No further questions, I'll accept a motion.

MR. BEDETTI: I'll make a motion that we grant the variance for 15 foot diameter pool that does not meet the 10 foot setback at 2311 Pioneer Trail in an R-3 zone.

MR. MCDONALD: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. MCDONALD	AYE
MR. KANE	AYE

NADIA\_VENEZIA\_(09-08)

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MR. KANE: Last public hearing is Nadia Venezia request for 22 foot rear yard setback for existing 21 foot by 24 foot attached rear concrete deck at 2642 Liberty Ridge. Let the record show that we do have people in the audience for this particular hearing. How you doing? Same as the preliminary, just speak up loud enough for the young lady to hear you. Okay?

MRS. VENEZIA: My name is Nadia Venezia, I live at 2642 Liberty Ridge, New Windsor, New York 12553 and we're looking to seek a variance request on our existing deck that has been erected.

MR. KANE: Cut down any trees or substantial vegetation in the building of the deck?

MRS. VENEZIA: No.

MR. KANE: Create any water hazards or runoffs?

MRS. VENEZIA: No.

MR. KANE: Any easements running through the area where the deck, the patio is built?

MRS. VENEZIA: No, but behind it by the fence there's an easement.

MR. VENEZIA: Passed the fence, not where the deck is.

MR. KANE: Nothing that impinges where the patio and deck is?

MRS. VENEZIA: No.

MR. KANE: About how long has the patio been in existence?

MRS. VENEZIA: A year.

MR. KANE: Have you had any complaints formally or informally?

MRS. VENEZIA: Yes.

MR. KANE: And they were?

MRS. VENEZIA: It should be in our file there, it was a formal written complaint. Here's a copy of it here.

MR. KANE: Okay, at this point, I will open this up to the public and if anybody has anything they want to say, please stand up, state your name and address, say what you need to say.

MR. COATES: Joseph Coates, we live at 2638 Liberty Ridge, New Windsor 12553 two houses away from them and, you know, we can directly see the patio and everything, we think it's a very tasteful structure just doesn't look like it has a, you know, any distaste to it or would cause a problem for anybody and, you know, that's, we think it's very tastefully done and, you know, I think it adds to the character of the neighborhood.

MR. KANE: So we gather that you're for it?

MR. COATES: Yes.

MR. KANE: Okay, anybody else wish to speak?

MS. ALLEGRA: My name is Kelly Allegra, property address 2819 Cherry Tree Way. From my property I have a direct view of the 22 foot deck. I just wanted to note that on the April 12 zoning appeals meeting the property owner, Miss Venezia, stated when asked by Mr. Kane that the deck itself is similar in size and nature to decks that are in your neighborhood. That's



absolutely not the case. It's 22 feet high, it towers over everything in the entire development. In addition, the property owner--

MR. KANE: You might want to correct that, I don't think it's 22 feet high.

MS. ALLEGRA: It says it's 22 feet.

MR. KANE: It's 22 x 24 is the area, not the height from the ground.

MS. ALLEGRA: I'm just pulling off here, it's at least 16 feet high is what I was told by the fire inspector, the fence itself is six feet and it's quite a bit higher than that. And then in addition to that they had a gazebo on it which made the structure look even that much larger and I believe that there are pictures there as well. As you're probably aware, The Reserve development is very small, they are quarter of an acre properties, there 13 houses lined up on each block so from every vantage point you can see this. This was put up last summer, it was put up without a permit, without any knowledge of anyone in the immediate area to express their concerns about it. I was concerned once I found out about this that once I guess the fire inspector, Frank Bedetti, went in that they said that the property was actually structurally unsound and they had to get an architect in there to have work done to make it safe. Okay, I know that there's procedures that need to be followed.

MR. KANE: Fire inspector said that it was unsound?

MS. ALLEGRA: The first person I spoke to in the fire inspector's office when I first went in.

MR. KANE: Not a building inspector? That was a fire inspector?

MR. MCDONALD: Code enforcement.

MS. ALLEGRA: Told me that it was structurally unsound that they had the property owner had to get an architect to come out, look at the property and make some changes. I'm very concerned as a property owner in the area that that took place. Because the structure is so high, you can, to just be quite frank, they have very large dogs, okay, I'm not saying anything about dogs but because the structure is so high, you can see the dogs and all of them outside the property. I have kids that when they walk by to them they're young, it appears to them that the dogs and I may sound unrational but appears to them the dogs can get over, there's no privacy. I understand the structure is up, I understand they put the money in, whatever the case may be at this point in time and I'm not trying to be difficult, I'm simply trying to ask that at a minimum request that we have some privacy around the area, that they put up some large trees around so that we don't see the structure. I think you can see by the pictures that it's extremely large and I also can, I'm the only one that's present today, a couple of my neighbors who were unable to get here because of work schedules wanted it to be known that they also had some concerns about it and signed this and I can give this to you if you'd like that.

MR. KANE: Yes, please.

MS. ALLEGRA: Simply, all I'm asking is that we have a little bit of privacy and that some large, at this point in time since the structure is already built that we have some very large trees around so that we have some property and we don't he see everything that goes on.

MR. KANE: It's a very reasonable request.

MR. MCDONALD: I'm looking at the picture, is this your

yard the one that I'm looking at? Where is her, is that your yard with the fence?

MS. ALLEGRA: No.

MR. MCDONALD: That's the property we're talking about?

MS. ALLEGRA: No, but he, when I walk out my door, I see all of this, I see the entire thing and because this level is so high when they come out to go on the pool, the dogs, all of the people you can see everything, I'm simply, again, I understand you built the structure and it's already done but it really, The Reserve property is very small, we're on top of each other and it requires some privacy.

MR. KANE: Okay, is that it?

MS. ALLEGRA: Yes.

MR. KANE: Thank you. Anybody else want to speak to this hearing? We'll close the public portion of the meeting and ask Nicole how many mailings we had.

MS. JULIAN: On April 29, 2009, I mailed out 73 addressed envelopes and I did not have any written response sent to me.

MR. KANE: The note we got a little says this petition is asking the ZBA for the Town of New Windsor to remove or reduce the large obstruction, the two foot rear yard setback for an existing 21 x 24 attached rear concrete deck.

MS. ALLEGRA: Just referring to the notice that was given in the mail.

MR. KANE: In an R-4 zone for property located at 2642 Liberty Ridge, New Windsor, New York now and designated as tax map section 77, block 1, lot 3, p.o. number

0908. Since I'm unable to attend the public hearing, let this serve as my objection to the variance permit, can't make out the names, but Edward Guerro, six names, we're looking at two people from 2818 Cherry Tree Way, person from 2819 Cherry Tree, person from 2809 Cherry Tree and two people from 2807 Cherry Tree. And put that into the record, please. What's your feeling about putting some trees up for privacy around the back end of your property and to the sides up a little bit?

MR. VENEZIA: We have already bought 18 trees that we had planted at five foot high each so they're not growing over the fence.

MRS. VENEZIA: This is the receipt, we spent \$1,800 on trees to respect our neighbors' privacy, we were going to do this before all this even occurred but, you know, things just got out of hand.

MR. KANE: How high will these trees be?

MRS. VENEZIA: About 25 to 30 feet.

MS. ALLEGRA: How high are they now?

MR. KANE: Public portion is done, you can't do that. You had a chance to ask your questions.

MS. ALLEGRA: This is my first time at one of these.

MR. KANE: I'm not yelling but it's done so you had a chance to say whatever you want and it stops there.

MS. ALLEGRA: Understand.

MR. KANE: Can we hold this for the record please?

MRS. VENEZIA: Yes.

MR. KANE: Other questions?

MRS. VENEZIA: We as well drew up a petition on our behalf in support of the deck that we have erected and I want to submit this to our file as well for all of our neighbors showing support.

MR. KANE: Okay, I have a petition, construction of raised stone patio at Venezia residence. We are in agreement that the raised stone patio erected at 2642 Liberty Ridge is a structure that is aesthetically pleasing and actually brings the overall property values in the development to a higher level. We are in agreement that the structure has no adverse consequences whatsoever to the integrity of our neighborhood. If anything, the structure characterizes the beauty that can be captured at The Reserve. We also understand that the property owners, Ed and Nadia Venezia, will also take on the burden of planting trees along the back side of the fence to respect the privacy of their neighbors as well. We are in overall agreement that we have no issues whatsoever with the raised stone patio. You have people at 2644 Liberty Ridge, two people, 2646 Liberty Ridge, 2637 Liberty Ridge, two people 2640 Liberty Ridge, 2028 Independence Drive, 2638 Liberty Ridge, 2654 Liberty Ridge, 2655 Liberty Ridge, two people at 2823 Cherry Tree Way, 2820 Cherry Tree Way and 2826 Cherry Tree Way, 2643 Liberty Ridge, 2824 Cherry Tree, 2808 Cherry Tree and 2806 Cherry Tree. So we have 20 separate lines here and looks like husband and wife signatures on a number of them. And please add that back into the record. Okay, further questions from the board?

MRS. VENEZIA: I'm sorry, just one other thing I wanted to add to the file these are pictures that my husband took this is this past weekend, this shows a picture of directly out of our sliding glass door, this is the complainant's home right here directly looking out of our sliding glass door and then this is another photo taken, this is directly from their driveway looking to

the back of our home, that's all you can see if you're standing in their driveway looking at our home. Those are perspective views.

MR. KANE: Okay, when you walk out the door to either what would be the patio or a deck there, there's no raised, you're not walking up onto this patio?

MRS. VENEZIA: No.

MR. KANE: It's a direct walk out level out?

MRS. VENEZIA: Yes.

MR. KANE: If something wasn't there, it would be a hazard if there was no deck with those doors right there?

MRS. VENEZIA: Sure, yeah, you'd fall.

MR. KANE: If you had put a wooden deck, it would still be at the same height?

MRS. VENEZIA: Yes. There's a 10 degree elevation to the slope of the streets, that's why it appears to be higher than our fence. We can't do anything to the grade, we did the best that we could, worked with what we had.

MR. KANE: Further questions?

MR. DITTBRENNER: Yeah, I have a couple. Prior to the beginning of construction, had you made application for a building permit?

MRS. VENEZIA: I came here to get a building permit for the in-ground pool that we put in last year as well and I was told by the woman, I did not get her name in the building department, telling me that as long as this patio was not attached to the home we would not need a

building permit. It was going to be considered a freestanding structure and therefore no need for a building permit.

MR. KANE: The definition of a freestanding structure is when you come outside your house, you walk down another set of steps, go down, walk back up a different structure so if you're walking directly from your home out onto something it is part of your house.

MRS. VENEZIA: Okay, so we weren't clear on that.

MR. DITTBRENNER: And this is a fairly substantial deck that's definitely attached to the house and you still believe that it was freestanding?

MS. VENEZIA: As it's been explained to us clearly by multiple people at the Town of New Windsor we need a building permit for this.

MR. DITTBRENNER: So this entire structure was completely without any plumbing, electric or structural inspections?

MRS. VENEZIA: It's not complete yet, it's like 95 percent complete, there was a stop order placed.

MR. DITTBRENNER: But everything as it relates to the construction as well as the substantial electrical that relates to the deck cannot be inspected because it's enclosed, because it's 95 percent complete?

MRS. VENEZIA: It--

MR. KANE: When it comes to the inspection they have to make it available to the inspector, if that means breaking it up and letting them in, if that's what the electrical inspector has to do, they have to do it.

MR. VENEZIA: We had all licensed guys do it, they took

pictures every step of the way.

MR. KANE: That will be strictly between depending on if it passes here and you go back to the building department you still have to obey all of their rules and their requirements as far as the deck. So I know they can make you tear it up so they can see.

MR. MCDONALD: I have a question, you intend to have any kind of lighting on this porch? You're kind of high now.

MRS. VENEZIA: Oh, no.

MR. MCDONALD: Any lights? I haven't seen that, that's one of my concerns.

MR. KANE: Any further questions?

MR. BEDETTI: Yeah, I guess I'm concerned the plantings that you just put in, how high are they?

MRS. VENEZIA: They're relatively, they're five feet, they grow three to five feet a year, we bought these trees in mind to be the quickest growing possible.

MR. BEDETTI: I really can't tell from the drawing but where would the violation line be relative to your patio now? Would it be in the middle of the patio or is it--

MRS. VENEZIA: The setbacks?

MR. BEDETTI: Yes.

MRS. VENEZIA: They called for what is it, 20, okay, right now, I believe we have 11 feet to the most pronounced area of the patio, I think they call for probably in the middle.



MR. BEDETTI: Yeah, almost in the middle.

MR. KANE: Any further questions? If no further questions, I'll accept a motion.

MR. BEDETTI: I'll make a motion that we grant the request to Nadia Venezia for a patio that requires a 22 foot variance to the rear property line as requested.

MR. MCDONALD: Second it.

MR. BEDETTI: At 2642 Liberty Ridge in an R-3 zone.

MR. KRIEGER: Wait a minute, you want me to add conditions, maintain the trees?

MR. KANE: Yes.

MR. BEDETTI: Yes.

MR. KANE: Would you add that we do want the trees that have been purchased and put in but they're to be maintained for privacy for your neighbors?

MRS. VENEZIA: Yes.

MR. KANE: And we're hoping to get to as you said 15 to 20 foot high.

MRS. VENEZIA: Absolutely.

MR. BEDETTI: Now you have submitted photographs of these current plantings, I didn't see the photos.

MR. KRIEGER: Photos, yes.

MR. KANE: We have a copy of the receipt.

MR. BEDETTI: They're there?

MR. KANE: Yes.

MR. MCDONALD: I'll second it.

MR. KANE: Roll call.

ROLL CALL

MR. DITTBRENNER	NO
MR. BEDETTI	NO
MR. MCDONALD	NO
MR. KANE	AYE

MR. KANE: Motion defeated three to one.

MRS. VENEZIA: What does that mean?

MR. KANE: It means you didn't get the variance and you have to take a re-look at it, speak to the building department in the morning. I think unless there's some other extenuating information that you can bring to the board you can't come back for about six months.

MR. KRIEGER: But if the application is changed in any way.

MR. KANE: Right, if the application is changed in any way.

MR. KRIEGER: But that basically means as far as I'm concerned anyway then the six months restriction would not apply, correct.

MRS. VENEZIA: So--

MR. KANE: We turned it down.

MS. VENEZIA: So then at this point what needs to be done?

MR. KANE: Basically, you can look at either restructuring the deck or the patio to fit more of a plan to in this--the problem when you go ahead and you build something without having a permit, there's no guarantees that you're going to get a variance. So technically if nothing is done on it effectively the town can force you to take it down. So you might want to take a look at the deck at what you might be able to do to restructure it.

MR. VENEZIA: So the building department will give us exact specs what we can build to?

MR. KANE: Exactly, and if there's something different in there as it's been said, The Reserve they're pretty small back yards, you know, if you re-plan the whole thing and come back and it still needs a little bit of a variance if it's different as the attorney said you can come back earlier with a substantial.

MR. VENEZIA: So we can draw up a sketch and come back?

MR. KANE: Well, go to the building department first and see what they say, okay?

MRS. VENEZIA: Okay, yeah, and I guess I'm just slightly confused but you're denying it due to that the fact that it exceeds the setbacks?

MR. VENEZIA: The size is too big.

MR. KANE: Probably the size.

MR. BEDETTI: Obviously, you don't have enough spacing between your rear property line and your deck because your deck is so large.

MRS. VENEZIA: If we were to do like does this require us to get all the people that have already installed decks because they're in the same position as we are,

we have people in our neighborhood that have 50 foot wide decks and they're--

MR. VENEZIA: Extending the whole length of the house.

MR. KANE: The length, if the length doesn't go passed it and they didn't need a variance, the only reason you get in front of us is if the building department turns you down for a permit.

MRS. VENEZIA: Right, but everyone in the neighborhood will need to get a variance as I've been instructed by the architect because we're in an R-3 zone.

MR. KANE: And basically everybody is putting up decks.

MR. KANE: And if they're not doing it with a permit up front, they can fall into the same trap, you know, where extensive work has been done and now you need to go back to the drawing board and take a look at it and see if there's a way that you can make it feasible that you have a chance of either I'm going to say in The Reserve almost every back yard that needs a deck is probably going to need some kind of a variance because of the way they built it. So the only thing you can do is take look at it and come back to the building department and see what they say about a new plan.

MR. KRIEGER: Theoretically, what's supposed to happen you're supposed to get a permit before starting any construction. I would like to tell you that nobody in the Town of New Windsor ever builds without getting a permit first but I would be lying to you if I told you that. There are a significant number of persons who have decided to basically build illegally, build before getting a permit and they knew that they should of had a permit and when they do that, they take a chance and the chance they take is if they get caught, they may be required to take it down. They build at their own risk, you know, there are other ways to approach it and

possibly by modifying the size of the deck and so forth. But the bottom line is people who build without a permit first take the chance that the zoning board is going to say no, they're called to task. There are persons who have built illegally without being called to task unfortunately I have to say yes there are but--

MR. DITTBRENNER: The reality is many times it comes to the forefront with the transfer of title for a sale because you have a survey done and all of a sudden you can't sell the property because you're not in compliance.

MR. KRIEGER: Yes, there's been a change, years ago banks in issuing mortgages were not that stringent but now they look very carefully at any addition to the house, sheds, anything and they'll require before lending money, especially in this climate we require strict compliance with the law and they'll see to it that that's done. So a person who constructs without permission not only runs the risk that they could be caught at any time like any law breaker but they also run the risk when they get around to selling it statistics say that's going to happen some day that they or their heirs or somebody they'll be called to account at that time.

MR. KANE: That's not to say it was turned down because you didn't get a permit up front, that's not the issue at all. None of the members are required to say why they voted each way but it might have been just a little bit too big and not enough area going to the back fence area is the possibility, so revisit it, see what you can do and talk to the building department.

MR. BEDETTI: I would just like to make a comment. I know The Reserve, I have been through there and the complicating factor that you have with all of this is houses up there, the lots are relatively small, now when you get into that type of zoning and they, some of

them may be even smaller than you might get outside of that Reserve and even though your patio I'd like to have it, it's beautiful but it's just a little bit too big for the area that you're in, you know, because of the size of the property, that's probably the most complicating factor that you have there.

MR. KANE: My problem with The Reserve is the way they built it they left no room for anybody to put a reasonable deck on the back of their house without having to go for a variance and that's almost every house that's in there and I mean that's been a pet peeve of mine for a number of years since they're started coming in for all of this stuff.

MR. VENEZIA: If it was similar and it wasn't raised like to the height and dropped down?

MR. KANE: I think the best bet honestly is to get together with the neighbors that had issues with the privacy issues and all that and see if you can come to a reasonable idea of what, you know, what would work for you and then still respect their privacy that they feel is being infringed upon. So I think if you have almost all neighbors on your side with that, that's a big plus absolutely, you know, I mean, you had a majority percentage coming into this but nothing's a guarantee, all depends on how the board members feel about that particular project, okay, but I think that's the best bet is to talk to your neighbors and see how you can go about making it a reasonable thing in there, something where everybody will be happy and you can get something that you like out there. Okay?

MRS. VENEZIA: Thank you.

FORMAL DECISIONS

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MR. KANE: Formal decisions, we have three formal decisions.

DENNIS SORICELLI  
ROBERT GELLMAN  
DIANE & NEIL PALMER

MR. DITTBRENNER: I would move that we accept the formal decisions for Soricelli, Gellman and Palmer as a group.

MR. MCDONALD: I'll second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. MCDONALD	AYE
MR. KANE	AYE

MR. KANE: Nothing further, motion to adjourn?

MR. BEDETTI: So moved.

MR. DITTBRENNER: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. MCDONALD	AYE

June 8, 2009

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MR. KANE

AYE

Respectfully Submitted By:

Frances Roth  
Stenographer



